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BASIL BROWN
P.O. BOX 3473
CEDAR HILL, TX 75106

B B
7/22/05

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of
Brown, Basil
Application No. 10/033,120
Filed: October 29, 2001
Title: DISPOSABLE COVER FOR
STETHOSCOPE HEAD

ON PETITION RECEIVED

JUL 26 2005

OFFICE OF PETITIONS

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 22, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 6, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 7, 2002. A Notice of Abandonment was mailed on December 10, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply;
- (2) the petition fee;
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition, under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

Adjustment date: 07/27/2005 AKELLEY
02/24/2005 MBIZUNES 00000030 10033120
02 FC:1999 -370.00 DP

07/27/2005 AKELLEY 00000022 10033120

01 FC:2001

395.00 DP

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The instant petition lacks item (1). The Office acknowledges receipt of the claim sheets with the instant petition. At the time the Notice was mailed in February 6, 2002, the basic filing fee was \$370.00. However, the amount of the filing fee is determined on the date the fee is paid in full, which is now \$395.00. Accordingly, petitioner needs to submit an additional \$25.00 to revive the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.



Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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